IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

OP.No. 13013 of 2003(Y)

PETITIONER:

AMALA CANCER HOSPITAL,
AMALA NAGAR, THRISSUR, REPRESENTED BY
ITS JOINT DIRECTOR FR. WALTOR THELAPPILLY CMI.

BY ADV. SRI.SABU GEORGE
SRI.JOHN JOSEPH VETTIKAD

RESPONDENTS:

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1. THE KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS CHAIRMAN,
VAIDYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM.

2. THE CHIEF ELECTRICAL INSPECTOR,
DEPARTMENT OF ELECTRICAL INSPECTORATE,
THIRUVANANTHAPURAM.

3. THE SPECIAL OFFICER (REVENUE)
KERALA STATE ELECTRICITY BOARD,
THIRUVANANTHAPURAM.

4. ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL MAJOR SECTION,
MUDUVATA, THRISSUR.

5. THE DEPUTY CHIEF ENGINEER,
ELECTRICAL CIRCLE, THRISSUR.

6. THE EXECUTIVE ENGINEER,
T.M.R. DIVISION, SHORNUR.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 31/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 22113 PF 2003 IN OP 13013 OF 2003

DISMISSED

31.5.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF LETTER NO. AE1/HT/02-03/AMALA/1772 DATED 2.9.2002 ISSUED BY THE 5TH RESPONDENT.

EXT.P2 TRUE COPY OF SITE INSPECTION REPORT PREPARED BY THE INSPECTION SQUAD DATED 9.12.2002

EXT.P3 TRUE COPY OF LETTER NO. DH/HT/25/2539/DATED 9.12.2002 ISSUED BY THE 4TH RESPONDENT.

EXT.P4 TRUE COPY OF REPORT OF THE STANDARD TESTING LABORAYTORY, TRIVANDRUM DATED 12.12.2002.

EXT.P5 TRUE COPY OF THE DEMAND CUM DISCONNECTION NOTICE NO. HTB 25/2539/1/03 DATED 1.4.2003

EXT.P6 TRUE COPY OF THE ELECTRICITY BILL FOR THE MONTH OF 12/2002 FOR AN AMOUNT OF RS. 4,00,863/-.

EXT.P7 TRUE COPY OF THE ELECTRICITY BILL FOR THE MONTH OF 1/2003 FOR AN AMOUNT OF RS. 4,07,185/-.\

EXT.P8 TRUE COPY OF THE ELECTRICITY BILL FOR THE MONTH OF 2/2003 FOR AN AMOUNT OF RS. 3,84,645/-.

EXT.P9 TRUE COPY OF ELECTRICITY BILL FOR THE MONTH OF 3/2003 FOR AN AMOUNT OF RS. 4,12,849/-.

EXT.P10 TRUE COPY OF ELECTRICITY BILL FOR THE MONTH OF 4/2003 FOR AN AMOUNT OF RS. 4,19,504/-.

EXT.P11 TRUE COPY OF ELECTRICITY BILL FOR THE MONTH OF 5/2003 FOR AN AMOUNT OF RS. 45,178/-.

EXT.P12 TRUE COPY OF ELECTRICITY BILL FOR THE MONTH OF 6/2003 FOR AN AMOUNT OF RS. 4,06,522/-.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

O.P. NO. 13013 OF 2003

Dated this the 31st day of May, 2007

JUDGMENT

Petitioner is a reputed hospital with HT connection. During inspection KSEB officials doubted whether actual consumption was recorded in the meter and therefore they got the CT/PT meter tested by the Standard Testing Laboratory of the Chief Electrical Inspector. Ext.P4 shows that testing proved unrecorded consumption. Therefore estimation was made in terms of clause 43 of the Conditions of Supply demanding charges for the escaped consumption at Rs. 7.87,815/-. Petitioner's case is that there cannot be any such unrecorded consumption and there is no allegation of theft of power by the inspection team. The prayer in the O.P. is for cancellation of addl. demand. Standing counsel on the other hand submitted that so long as petitioner does not challenge Ext.P4 test certificate, the addl. demand is the necessary consequence which is permissible under the Conditions of Supply. Even though Ele. Board is free to demand charges for unmetered consumption, I feel since petitioner is an institution, the

more scientific and practical way to demand for unrecorded consumption is to demand difference between the charges paid for six months prior to detention of defect and charges paid for actual consumption recorded for the subsequent six months. In the circumstances, O.P. is disposed of directing the concerned respondent of Ele. Board to verify six months bills prior to installation of new meter and charges paid for subsequent six months and demand the difference between the total six months bills prior to inspection and after installation of fresh gadgets. I make it clear that this is confined to the facts of this case, and not to be treated as precedent for other cases. The amount paid against disputed demand should be adjusted against revised demand and only the balance should be recovered and too without interest, if paid by the petitioner within one month from the date of raising the revised bill.

(C.N.RAMACHANDRAN NAIR)
Judge